

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF JOHN C.
BURDETTE IN THE AMOUNT OF \$2,300.00
AGAINST THE CITY OF ATLANTA
ARISING FROM A STORM SEWER
OVERFLOW**

02-12-0009

WHEREAS, JOHN C. BURDETTE has filed a claim against the City of Atlanta seeking damages arising out of a storm water overflow to his property located at 556 Tift Street; and

WHEREAS, property owned by JOHN C. BURDETTE has been damaged due to several storm water and storm sewer overflows caused by blocked storm drains during heavy rainfall, to which the City had knowledge of and has made a number of attempts to improve storm water flow prior to the June 4, 2001 occurrence; and

WHEREAS, the City of Atlanta was on notice of said nuisance and made an attempt, however unsuccessful, to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$2,300.00 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of JOHN C. BURDETTE, be settled for the sum of \$2,300.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$2,300.00 be paid by the City of Atlanta to JOHN C. BURDETTE, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about June 4, 2001, at 556 Tift Street, and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 1A01/529017/T31001.

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DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0445

Date: January 4, 2002

Claimant /Victim JOHN C. BURDETTE

BY: (Atty) (Ins. Co.) _____

Address: 95 Milton Avenue, SE, Atlanta, Georgia 30315

Subrogation: _____ Claim for Property damage \$ 2,300.00 Bodily Injury \$ _____

Date of Notice: 7/10/01 Method: Written, Proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 _____ X Ante Litem (6 Mo.) X

Date of Occurrence 6/4/01 Place: 556 Tift Street

Department PUBLIC WORKS Division _____ Sewer Operations _____

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant sustained damage to his rental property from a storm sewer overflow. An investigation determined that the City was on notice of said problem but failed to permanently correct it.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 2,300.00 Adverse _____ Account charged: 1A01 X 2J01 _____ 2H01 _____

Claims Manager  Concur/date 01-04-02

Committee Action: _____ Council Action _____

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 01L0445

\$ 2,300.00

IN CONSIDERATION of the sum of TWO THOUSAND THREE HUNDRED AND 00/100
 DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged,
I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City,
its officers and employees, from any and all claims, demands, actions, causes of action, suits, damages, loss and
expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly
for or on account of a sewer backup
which occurred on or about 4th day of June, 2001,
at or near 556 Tift Street

It is further understood and agreed that the payment of the above named sum is not to be considered as an
admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the
undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents,
servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers,
agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

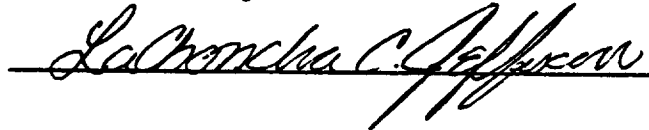
And I now state that the only consideration for my signing this release and indemnification is the payment
of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by
said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this
instrument.

WITNESS my hand and seal this 12/5/01 day of , 20-01.


JOHN BURDETTE (LS)

The above release was read and explained to, and signed by the said

 in our presence on the date above written.



WITNESSES